

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

David P.,

Plaintiff,

v.

Case No. 1:23cv331

Commissioner of Social Security,

Defendant.

ORDER

This matter is before the Court on the Report and Recommendation (“R&R”) filed by the Magistrate Judge on November 17, 2023 (Doc. 11).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties may forfeit rights on appeal if they failed to file objections to the R&R in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). No objections to the Magistrate Judge’s R&R (Doc. 11) have been filed and the time to do so has expired.

Accordingly, it is **ORDERED** that the R&R (Doc. 11) of the Magistrate Judge is hereby **ADOPTED**. Consistent with the recommendation by the Magistrate Judge, the Court **SUSTAINS** Plaintiff’s Statement of Errors (Doc. 8), **VACATES** the Commissioner’s findings, and **REMANDS** this case under Sentence Six of 42 U.S.C. §405(g). While the Commissioner is considering the new and material evidence on remand, this case is **ADMINISTRATIVELY CLOSED**. However, this Court retains jurisdiction over this action such that should Plaintiff be dissatisfied with the new decision of the Commissioner on remand, Plaintiff may petition the Court for entry of an

Order reinstating the case on the active docket for judicial review of the new decision. Plaintiff must file said petition within 30 days of the date of the Commissioner's new decision. Should both sides be satisfied with the Commissioner's new decision following remand, the prevailing party shall, within 30 days of the Commissioner's decision, petition the Court for entry of a Final Order adopting and ratifying the new decision.

IT IS SO ORDERED.

s/Michael R. Barrett
Michael R. Barrett, Judge
United States District Court